

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8546 of 2016

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Kripali Mistri son of Late Nanhak Mistri, resident of Village Paharpur, P.S.- Ghoshi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Environment & Forest Department, Govt. of Bihar, Patna.
2. The Principal Chief Conservator of Forest, Bihar, 4th Floor, Technology Bhawan, Bailey Road, Patna.
3. The Licensing Officer-cum-Divisional Forest Officer, Gaya Forest Division, Gaya.
4. The Ranger, Jehanabad Forest Range, Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vinay Mistry
For the Respondent/s : Mr. Pratik Kr. Sinha, AC to G.A. 5

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL JUDGMENT

Date : 29-04-2019

Supplementary Affidavit has been filed on behalf of petitioner, which may be kept on record.

Heard the learned counsel for the petitioner and the State.

The instant writ petition has been filed for quashing the seizure-list dated 19.08.2015 (Annexure-1) prepared by the Ranger, Jehanabad, Forest Range, Jehanabad, by which four pieces of Chiran wood of mango and head of Saw Mill have been seized in violation of Sections 2, 5, 8, 9 and 10 of the Bihar Saw Mills (Regulation) Act, 1990 and under Sections 41 & 42 of the Indian



Forest Act, 1927 and for quashing the order dated 31.10.2015 (Annexure-2) passed by the Divisional Forest Officer, Gaya, Forest Division, Gaya in Confiscation Case No. 69 of 2015, by which seized woods and the head of Saw have been confiscated as well as for direction to the respondents to release the seized woods and Head of Saw in favour of petitioner.

Learned counsel for the petitioner has submitted that petitioner was running a Saw Mill of 18" diameter, which is exempted from the license as per government Resolution No. 35 of 2011 as contained in Annexure-5 to the Supplementary Affidavit.

The petitioner has referred to seizure-list, as contained in Annexure-1 to the writ petition, wherein it is mentioned that four pieces of 6"x6"x1" Chiran Wood of mango have been seized besides the Head of Saw as mentioned in the writ petition.

Learned counsel for the petitioner has submitted that petitioner was running the Saw Mill of 18" diameter for preparing furniture etc. The impugned order dated 31.10.2015 has been illegally passed by the Divisional Forest Officer, Gaya, Forest Division, Gaya in Confiscation Case No. 69 of 2015, by which he has confiscated the woods as well as the Head of saw of the Saw Mill of petitioner.



The petitioner has filed the Resolution, issued by the Environment and Forest Department, Govt. of Bihar, as contained in Annexure-5 to the supplementary affidavit, bearing Memo No. 3959 dated 24.12.2012, wherein no registration is required for 18” diameter Saw Mill. It is nowhere mentioned in the seizure-list (Annexure-1) that the seized head of saw was used for more than 18” diameter of wood.

Learned counsel for the petitioner has submitted that petitioner had established 18” diameter Saw Mill for manufacturing the furniture on the basis of the recommendations of the CEC dated 11.06.2008, which is exempted from the purview of Bihar Saw Mills (Regulation) Act, 1990 but the same was closed and illegally four pieces of Chiran Wood and Head of saw were seized and confiscated by the Divisional Forest Officer, Gaya Forest Division, Gaya in exercise of its power under Section 13 of the Bihar Saw Mills (Regulation) Act, 1990 vide order dated 31.10.2015 passed in Confiscation Case No. 69 of 2015.

From perusal of the order dated 31.10.2012 as contained in Annexure-2, it appears that there is no mention that the items which were seized from the Saw Mill of petitioner was used for more than 18” diameter. The Confiscating Officer has closed the



Saw Mill of the petitioner and seized the items on the ground that he was running the Saw Mill illegally.

Therefore, the impugned order dated 31.10.2015, as contained in Annexure-2, Passed by the Confiscating Officer (Respondent No. 3) is hereby set aside.

Respondent No. 3 is directed to release the items seized from the Saw Mill of petitioner within a period of two weeks from the date of receipt/production of copy of this order after proper verification of all the relevant documents produced by the petitioner.

The petitioner will file affidavit that he will not use wood of more than 18” diameter after release of the articles as mentioned in the seizure-list. He will be liable for penal action in the event he use more than 18” diameter wood in his Saw Mill.

This writ petition is accordingly allowed with directions made above.

(Sanjay Priya, J)

rakhi/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	06.05.2019
Transmission Date	

